



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT : Venit et al.  
SERIAL NUMBER 10/660,439 EXAMINER : Reyes, Hector M.  
FILING DATE : September 10, 2003 ART UNIT : 1625  
FOR : COMBRETASTATIN A-4 PHOSPHATE PRODRUG MONO- AND DI-  
ORGANIC AMINE SALTS, MONO- AND DI-AMINO ACID SALTS, AND  
MONO- AND DI-AMINO ACID ESTER SALTS

Commissioner for Patents  
P. O. Box 1450  
Alexandria, VA 22313-1450

TRANSMITTAL LETTER

Transmitted herewith for filing in the present application are the following documents:

Response to Restriction Requirement (3 pages); and  
Return Postcard.

The Commissioner is authorized to credit any overpayment or charge any deficiencies to  
Deposit Account No. 50-0311, Reference No. 18217-504-CON. A duplicate copy of this  
Transmittal Letter is enclosed.

Respectfully submitted,

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GLOVSKY AND POPEO, P.C.

Ivor R. Elrifi, Reg. No. 39,529

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Dated: April 26, 2004

4-28-04

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**RESPONSE TO RESTRICTION REQUIREMENT**

In response to the Restriction Requirement mailed on March 25, 2004, Applicants provisionally elect the invention of Group I (claims 1-4 and 9-12), drawn to a series of compounds of formula I, and compositions comprising the same, wherein the variable Q is an optionally substituted aliphatic organic amine containing at least one nitrogen atom which, together with a proton, forms a quaternary ammonium cation  $QH^+$  for prosecution in the above-referenced application. This election is made with traverse.

According to the Examiner, Group I is different from Groups II and III because each is drawn to compounds and its pharmaceutical compositions having a particular chemical structure, Groups VI and VII are unrelated because each method of modulating tumor growth or metastasis in an animal comprises administration of compounds with a particular chemical structure, and Groups VII and VIII are different from each other because Group VII is directed to a composition, while Group VIII is directed to preparing compounds. Furthermore, according to the Examiner, the Groups are generic to a plurality of patentably distinct species. Specifically, Groups I and IV are said to be directed to different aliphatic amines, Groups II and VII are said to be directed to different amino acids, and Groups III and VIII are said to be directed to different ester derivatives of amino acids. The Examiner asserts that given the reasons above, the search required for any one of the above Groups is not required for anyone of the other Groups, therefore the restriction for examination purposes is proper. Applicants respectfully disagree.

Applicants assert that the compounds, compositions, methods of preparation, and methods of administration of the claims are related to the same invention because they are all directed to compounds of formula I. Furthermore, in all claims the variable Q contains one or more nitrogen atoms, which, together with a proton, forms a quaternary ammonium cation  $QH^+$ . Therefore, Applicants submit that the Combretastatin A-4 Phosphate salts claimed in the present application are not patentably distinct from each other. Moreover, they each were invented to perform the same function, *i.e.* to improve the solid-state properties of Combretastatin A-4 disodium salt. Furthermore, the methods of use and manufacture of a particular salt should not be considered patentably distinct from a claim for its composition. Thus, Applicants contend that the current restriction requirement is improper, and the claims should be examined as a single invention.

The Examiner has required election for searching purposes only a single disclosed species for prosecution on the merits to which the claims shall be restricted if no other generic claim is allowable. Accordingly, Applicants provisionally elect the following species: ethanolamine. It is Applicants' understanding that this-made species election is for searching purposes only and upon a finding of allowability of the elected species, the remaining species will also be searched.

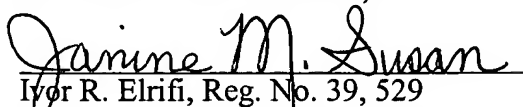
#### **SUMMARY**

If a telephone conversation with Applicants' attorney would help expedite the prosecution of this application, the Examiner is invited to call Applicants' attorney at (617) 542-6000.

A response to the Restriction Requirement is due on or before Monday, April 26, 2004 (April 25, 2004 being a Sunday). Applicants believe that no fees are due with this submission, however the Commissioner is hereby authorized to charge any additional fees that may be due, or credit any overpayment of same, to Deposit Account No. 50-0311 (Reference No. 18217-504 CON).

Respectfully submitted,

MINTZ, LEVIN, COHN, FERRIS,  
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